

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
OCT 25 1991

CERTIFIED MAIL

Dear Applicant:

We have completed our review of your application for recognition of exemption from federal income tax.

The evidence submitted that you were formed on [REDACTED] to establish a civic association for the purpose of maintenance of the hard surface right-of-way which property owners of [REDACTED] use to access their property.

The purpose of the association is to provide for individuals to serve as officers of the association to assist in the maintenance upkeep and improvement of the right-of-way road. Funds for this purpose will be collected from each property owner.

This organization represents a private community of property owners.

Section 501(c)(4) of the Code provides for the exemption from federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(1) of the Income Tax Regulations provides that an organization is operated for the promotion of social welfare if it promotes, in some way, the common good and general welfare of the people of the community. An organization described in this section is one which is operated for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 72-102, 1972-1 C.B., 149, states that a non-profit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks and common areas for use of residents is exempt under section 501(c)(4). Membership is required of all owners of real property in the development and assessments are levied to support the organization's activities. It was held that by maintaining the property normally maintained by a municipal government the organization served the common good and general welfare of the people of the community.

Revenue Ruling 74-99, 1974-1 C.B. 131, modified Revenue Ruling 72-102 by providing new guidelines under which a homeowners association could be exempt. These guidelines are:


1. The organization must serve a "community" which bears a reasonable recognizable relationship to an area identified as a governmental unit;
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common areas or facilities must be for the use and enjoyment of the general public.

Revenue Ruling 74-99 states that "...Revenue Ruling 72-102 was intended only to approve ownership and maintenance by a homeowners association of such areas as roadways and parklands, sidewalks and street lights, access to or the use and enjoyment of which is extended to members of the general public. Since access to and use of your facilities is limited to the residents of the development, you do not qualify for exemption under section 501(c)(4) and are a taxable entity. You are required to file federal income tax returns on Form 1120.

Based on the information submitted, we have determined that your organization is operating essentially in the same manner as the organization described in Revenue Ruling 74-99 and therefore does not qualify for exemption under section 501(c)(4) and are a taxable entity.

You are required to file federal income tax returns on Form 1120.

Section 528 of the Internal Revenue Code deals with organizations which are "homeowners' associations". The term "homeowners' association" for purposes of this section means (a) an organization which is a condominium management association or a residential real estate management association if such organization is organized and operated to provide for the acquisition, construction, management, maintenance and care of association property, (b) 60% or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from owners of residential units of a condominium management association, (c) 90% or more of the expenditures of the organization are expenditures for the acquisition, construction, management, maintenance, and care of association property, and (d) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual and (e) such organization elects to have this section apply for the taxable year.



We are enclosing a copy of Publication 588 which provides information on section 528 if you want to consider electing to be covered by this provision of the Code.

If you do not accept our findings regarding your exempt status under section 501(c)(4), we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient District Office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in the enclosed Publication 892, this letter will become our final determination on this matter.

Sincerely yours,



District Director

Enclosures:  
Publication 892, Publication 588